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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/780,732	02/19/2004	Kenneth P. Pletz	7671/80901	3282
7590 Kenneth P. Pletz 7816 Bluewater Drive Las Vegas, NV 89128		09/21/2007	EXAMINER LE, KHANH H	
			ART UNIT 3622	PAPER NUMBER
			MAIL DATE 09/21/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/780,732	Applicant(s) PLETZ, KENNETH P.	
	Examiner Khanh H. Le	Art Unit 3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action is responsive to the original application filed 02/19/2004. Claims 1-8 are pending. Claims 1 and 5 are independent.

Specification

2. The abstract of the disclosure is objected to because the abstract is too long. Correction is required. See MPEP § 608.01(b).

The specification is objected to. It must contain and should be amended to contain reference to Provisional Application 60448475 in the first sentence(s) following the title. 37 CFR 1.78 (2) (iii).

Claim objections

3. Claim 1: "at lease" needs to be corrected.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Garg 6571216 in view of LaPointe 2005/0261913.

Art Unit: 3622

Independent claims 1 and 5:

Garg discloses a rewards scheme to consumers to promote sales, on or off-line, involving many types of promotional schemes including prizes and games (abstract), with incentives (as commission or otherwise) to agents who distribute the rewards to the consumer upon a sale completed by the consumer (col. 20 lines 20-34).

Thus Garg discloses:

A method for promoting a business offering, said method comprising:
agreeing with a merchant to promote said business offering;

determining one or more prizes using a promotional device

providing said promotional device to an agent for distribution to a potential customer (abstract);

receiving notification that said promotional device has been redeemed by a customer of said merchant (col. 20 lines 20-34); and

providing said agent with a benefit (col. 20 lines 20-34).

Garg does not disclose the promotional device is a scratch-off game card with scratch-off figures made of opaque material, each figure covering an indication of a prize or no prize, wherein a corresponding target winning chance for each said prize is predetermined, manufacturing said promotional card or observing, by said merchant, the removal, by said customer, of the scratch-off material.

However LaPointe discloses scratch-off cards (physical or electronic) with plural images hiding potential prizes, distributed to consumers by many intermediaries, to promote business offerings or sales ([0011]-[0013]).

Thus it would have been obvious to a person having ordinary skill in the art at the time the invention was made (herein a "PHOSITA") to use La Pointe's scratch cards as one of Garg's promotional devices because of their apparent effectiveness with consumers in a variety of promotional schemes and marketers' familiarity with them. (LaPointe, [0011]).

Further, since Garg discloses a physical store where the buyer can be observed (col. 9 lines 44-50), the combination of Garg/ LaPointe would disclose such observation to allow redemption.

Art Unit: 3622

Claims 2, 6:

Garg/ LaPointe discloses methods as in Claims 1 or 5 above and but does not disclose the benefit provided by said promoter to said agent is of a preset, fixed value independent of any prize provided to said customer by said merchant.

However Garg discloses the promotional scheme owner provides the agent with some flexibility in rewards/ incentives design so to maximize the incentive he or she gets (col. 9 lines 35-43). Thus it would have been obvious to a PHOSITA, if a preset, fixed value independent of any prize provided to said customer is more advantageous to the agent, to add such to Garg/ LaPointe to benefit the agent as taught by Garg.

Claims 3, 7:

Garg/ LaPointe discloses methods as in Claims 1 or 5 above but does not disclose each of said indications is of a prize. However this is a matter of design choice which may be dictated by economic conditions. With scratch up cards, La Pointe teaches rules of redemption are set by marketers ([0011]). A PHOSITA, in view of Garg/ LaPointe teachings, would have known to design the prizes as necessary to elicit the desired response from consumers. If a marketer thinks making each indication on a scratch card a prize would enthruse consumers, he would add such to Garg/ LaPointe.

Claims 4, 8:

Garg/ LaPointe discloses methods as in Claims 3 and 7 above and Garg further discloses the value of the benefit provided to said agent by said promoter is related to the value of the prize provided to said customer by said merchant (col. 9 lines 22-24, or 29-34).

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Auxier 2002/0198054 discloses e-scratch-off card with multiple combinations of prizes.

Art Unit: 3622

Thompson 6520542 scratch-off redemption cards.

Walker 2006/0229945 discloses e-scratch-off cards, codes revealing prizes and using agents.

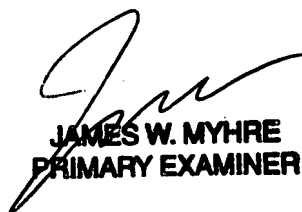
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khanh H. Le whose telephone number is 571-272-6721. The Examiner works a part-time schedule and can normally be reached on Tuesday-Wednesday 9:00-6:00.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Eric Stamber can be reached on 571-272-6724. The fax phone numbers for the organization where this application or proceeding is assigned are **571-273-8300** for regular communications and for After Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-3600. For patent related correspondence, hand carry deliveries must be made to the Customer Service Window (now located at the Randolph Building, 401 Dulany Street, Alexandria, VA 22314).

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

September 16, 2007

KHL



JAMES W. MYHRE
PRIMARY EXAMINER